

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LINDA MIGLIORI, FRANCIS J. FOX,
RICHARD E. RICHARDS, KENNETH
RINGER, and SERGIO RIVAS,

Plaintiffs,

and

ZACHARY COHEN,

Intervenor- Plaintiff,

v.

LEHIGH COUNTY BOARD OF ELECTIONS,

Defendant,

and

DAVID RITTER,

Intervenor-Defendant.

No. 5:22-cv-00397

**DEFENDANT LEHIGH COUNTY BOARD OF ELECTIONS' ANSWER TO
PLAINTIFFS' OBJECTIONS TO REPORT AND RECOMMENDATION**

The Lehigh County Board of Elections, above-captioned Defendant (“Board”), respectfully submits its Answer to Plaintiffs’ Objections to Report and Recommendation, and in support thereof, avers the following:

1. Denied. The corresponding paragraph sets forth a conclusion of law and, therefore, is denied. To the extent a response is required, the Board avers it met its burden of challenging the requested fees with sufficient specificity to give Plaintiffs notice of the challenge. Any and all remaining factual averments are denied.

2. Denied. The Board denies that the recommended reductions in hours worked are not based on factors raised by the Board. To the contrary, the extensive arguments set forth by the Board justified the reduction in hours. Any and all factual averments are denied.

3. Denied. The Board denies the recommended reductions in hours worked are based on “arbitrary” hours per page rates for preparing documents, without regard to the type of document or complexity of issues addressed. The Board further denies it never raised the issue of Plaintiffs’ requested hours being unreasonable based on an “hours per page” analysis. Any and all factual averments are denied.

4. Denied. The Board denies that the recommended reductions in hours are based on separation of time “drafting” and time “editing” or “revising” documents, rather than considering time as a whole to prepare documents. Any and all remaining factual averments are denied.

5. Denied. The Board denies that the Court did not provide Plaintiffs with an opportunity to submit evidence in support of their requested fees. Any and all remaining factual averments are denied.

6. Denied. The Board denies that the Court erred in recommending a reduction in hourly rates for attorneys Walczak and Schneider from \$750 to \$725. Any and all remaining factual averments are denied.

7. Denied. The Board denies that the Court erred in recommending that Allentown is the relevant community for determining reasonable hourly rates. Any and all remaining factual averments are denied.

AFFIRMATIVE DEFENSES

1. The Board incorporates and herein adopts all the extensive arguments and defenses made in its prior briefs, memoranda, and affidavits in this matter.

2. The Report and Recommendation improperly defers to Judge Leeson’s ruling that Plaintiffs are “prevailing parties” in the underlying matter, particularly in light of the U.S. Supreme Court’s recent decision in *Lacky v. Stinnie*, 145 S. Ct. 659 (2025).

WHEREFORE, Defendant Lehigh County Board of Elections respectfully requests this Court enter an Order overruling and/or denying Plaintiffs’ objections to the Report and Recommendation and further determining Plaintiffs are not prevailing parties in the underlying matter, particularly in light of the U.S. Supreme Court’s recent decision in *Lacky v. Stinnie*, 145 S. Ct. 659 (2025).

Respectfully Submitted,

DATED: June 16, 2025

REPKA MAZIN LLC

By: Joshua S. Mazin

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Board's Answer to Plaintiffs' Objections to Report and Recommendation was served on all parties of record via the Court's CM/ECF system on the date set forth below.

DATED: June 16, 2025

By: Joshua S. Mazin
Joshua S. Mazin, Esq.